



Department of  
**Education**

Individualized Education  
Account (IEA) Program

# Tennessee Individualized Education Account (IEA) Program Provider Handbook\*

Jan. 1 – June 30, 2017



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**\*Please Note:** The information in this handbook is pending approval of the Rules for the IEA Program.

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# Chapter 1: Introduction

The Individualized Education Act creates individualized education accounts (IEAs) for eligible students with disabilities to use for educational purposes. The program provides options for parents/guardians of students with certain disabilities to choose the educational opportunities that best meet the individual needs of their child by giving them direct access to state and local public education funds.

## **The Law**

The law (T.C.A. § Title 49, Chapter 10, Part 14) was passed by the Tennessee General Assembly during the 2015 legislative session and provides for the awarding of the first IEAs during the 2016-17 school year. The State Board of Education (SBE) and the Tennessee Department of Education (TDOE) have developed implementation rules and procedures for the program. Links to the IEA Program law, rules, and procedures are posted on the TDOE website:

<http://www.tn.gov/education/topic/tdoe2iea-iea-laws-rules-and-procedures>

## **What is an Individualized Education Account?**

Parents/guardians of students who are eligible to participate in the IEA Program will receive access to state and local public education funds through a prepaid debit card account, the IEA account. IEA accounts are administered by the Tennessee Department of Education (TDOE) through a contract with Xerox. The maximum annual amount of the IEA is equal to 96 percent of the amount representing the per-pupil state and local funds generated and required through the Basic Education Program (BEP) — the state's funding formula for public education — for the school district in which the student resides and is zoned to attend. The TDOE retains four percent of the amount to pay for costs to administer the IEA Program. The average anticipated amount of IEA awards across the state is approximately \$6,336, which represents 96 percent of the average per pupil amount of state education funding and the local match. The funds will be deposited into the student's IEA on a quarterly basis.

## **Purpose of this Handbook**

This *IEA Provider Handbook* is designed to provide information about the IEA Program specifically for participating schools and providers. The *IEA Provider*

*Handbook* is meant to supplement the *IEA Parent Handbook*; all participating schools or providers should read the *IEA Parent Handbook* in addition to the *IEA Provider Handbook*.

Both handbooks, along with additional information and answers to frequently asked questions about the IEA Program, are posted on the TDOE's IEA webpage at: <http://www.tn.gov/education/section/iea>

New IEA parent and provider handbooks will be released every school year. If you have any suggestions for content that should be added to next year's handbooks, please email them to [IEA.Questions@tn.gov](mailto:IEA.Questions@tn.gov)

### **Staying Informed About the IEA Program**

Information about the IEA Program, including resources, dates/ times/ locations for information meetings, and answers to frequently asked questions is available on the TDOE's IEA webpage: <http://www.tn.gov/education/section/iea>

The TDOE will continuously provide updated information on the website, so please check the website regularly for news and information about the IEA Program.

Providers can also sign up to receive e-mail updates and the monthly IEA newsletter by clicking on the link posted on the TDOE's IEA webpage.

### **IEA Program Contact Information**

Providers can contact the IEA team and send any questions about the IEA Program to [IEA.Questions@tn.gov](mailto:IEA.Questions@tn.gov)

## **Chapter 2: School & Provider Eligibility**

In order to participate in the IEA Program and receive IEA funds, schools and providers must meet the eligibility requirements set by state law, SBE rules, and the TDOE's procedures.

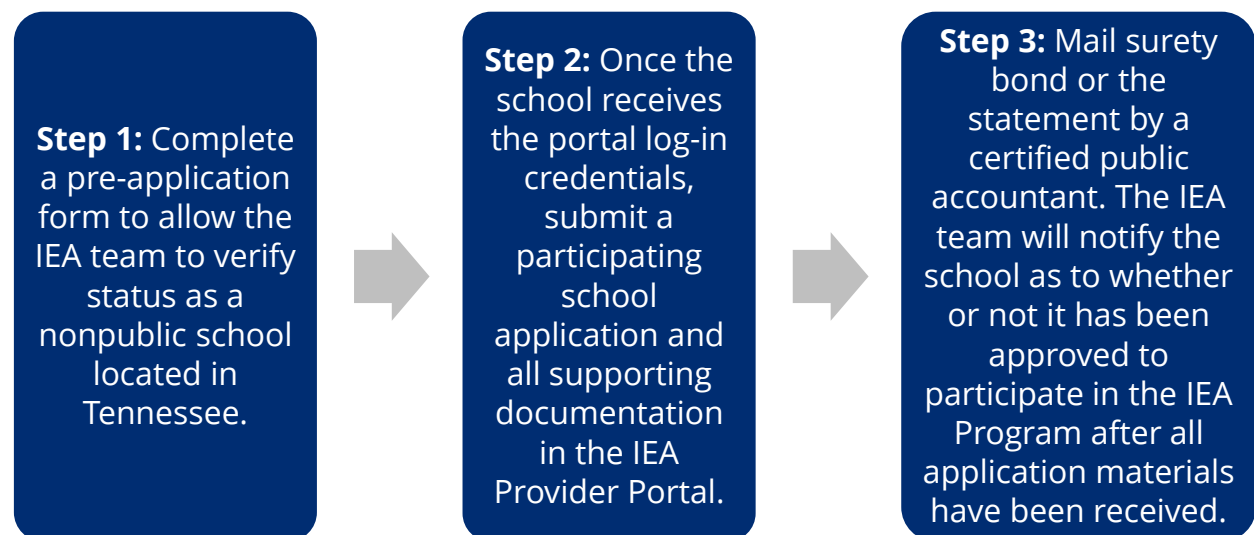
- Private Schools: Only Category I, II, and III nonpublic schools are eligible to participate in the IEA Program. For a complete list of the eligibility requirements for private schools, see Chapter 9 of the *IEA Parent Handbook*.

- Online Learning Programs: Only Category III online learning programs are eligible to participate in the IEA Program. For a complete list of the eligibility requirements for online learning programs, see Chapter 9 of the *IEA Parent Handbook*.
- Therapists: Therapists must hold one of the licenses listed in the TDOE's procedures. For a complete list of the eligibility requirements for therapists and therapy providers, see Chapters 9 and 10 of the *IEA Parent Handbook*.
- Tutors: Individual tutors must meet the licensure requirements set by the TDOE or a tutoring organization accredited by one of the accrediting agencies listed in the IEA rule. For a complete list of the eligibility requirements for tutors, see Chapters 9 and 10 of the *IEA Parent Handbook*.

## Chapter 3: Private School Application, Rights & Responsibilities

### Nonpublic School Application to Participate in the IEA Program

#### *Three steps to apply to participate in the IEA Program*



In order to participate in the IEA Program, private schools must apply to the TDOE and receive approval before the school can accept IEA funding from parents for

payment for tuition, fees, and/or textbooks required by the school. Only Category I, II, and III nonpublic schools may apply to participate in the IEA Program.

Private schools interested in participating in the IEA Program must complete a pre-application form to allow the IEA team to verify their status as nonpublic schools located in Tennessee. Schools will need to submit a form linked from the IEA webpage under the private school tab and provide the following information:

- Nonpublic School Category
- School Name
- Address
- City
- State
- Zip
- County
- Phone number
- School principal name

The IEA team will notify schools that have been approved as valid, in-state schools within 30 calendar days of the initial submission via email. The IEA Team will also provide the portal link so that the school can apply to participate in the IEA Program by submitting the application and requested documents.

In the application, schools must indicate whether the school provides an “inclusive educational setting” or does not provide an inclusive setting. For the purposes of the IEA Program, a participating nonpublic school is considered to have an inclusive educational setting if the following two criteria are met:

1. Students with disabilities are educated with non-disabled children.
2. No more than 50 percent of the students in an individual classroom or setting are students with disabilities.

By completing the application, participating private schools agree to comply with all state laws, rules, and procedures for the IEA Program as well as the requirements in the parent and provider handbooks. Schools that do not comply may be removed from participating in the IEA Program.

If the TDOE determines that a school is eligible to participate in the IEA Program and enroll students in the IEA Program, the TDOE will notify the school and list the school on the TDOE’s website as a participating school.

**Please note:** In order to participate in the IEA Program, nonpublic schools must agree to allow the TDOE to conduct site visits. The purpose of the site visits is solely to verify the information reported by the schools concerning the enrollment and attendance of students, background screening of teachers, and compliance with state law, rules, and procedures.

### **Private School Rights**

The following are the rights of private schools as listed in the Individualized Education Account Act, Public Chapter 431:

- a) A participating school is autonomous and not an agent of the state or federal government.
- b) Neither the TDOE nor any other state agency may regulate in any way the educational program of a participating nonpublic school or education provider that accepts funds from the parent of a participating student.
- c) The creation of the IEA Program does not expand the regulatory authority of the state, its officers, or any LEA to impose any additional regulation of nonpublic schools or education providers beyond those necessary to enforce the requirements of the program.
- d) Participating nonpublic schools and education providers shall be given the maximum freedom to provide for the educational needs of their students without governmental control. Neither a participating nonpublic school nor an education provider shall be required to alter its creed, practices, admissions policies, or curriculum in order to accept participating students.
- e) In any legal proceeding challenging the application of this part to a participating school, the state bears the burden of establishing that the law is necessary and does not impose any undue burden on participating schools.

### **Private School Responsibilities**

Private schools participating in the IEA Program must, as part of their application to participate in the IEA Program, agree to the following:

- 1. Provide to the TDOE all documentation required for a student's participation, including the school's and student's fee schedules.
- 2. Be academically accountable to the parent for meeting the educational needs of the student.

3. At a minimum, annually provide to the parent a written explanation of the student's progress.
4. If the student is in grades 3–8, and if requested by the parent, the school shall annually administer either a nationally norm-referenced test(s) identified by the TDOE or the Tennessee Comprehensive Assessment Program (TCAP) test(s), or any future replacements of the TCAP test(s). (See the "Assessments" section below.)
  - a. If the school administers a norm-referenced test(s) to an IEA student, the school will provide the student's parent with an assessment report which shall include, at a minimum:
    - i. the name of the assessment,
    - ii. the date the assessment was administered to the student,
    - iii. the student ID number (issued by the public school district in which the student resides),
    - iv. the name of the student (first, last, and middle initial), **and**
    - v. the student's score on the assessment.
  - b. If the school administers a TCAP assessment to an IEA student, the school shall identify on the forms submitted to the TDOE's Division of Data and Research the student's ID number (issued by the public school district in which the student resides) **and** the IEA Program's EIS classification code (8).
5. Comply with all health and safety laws or codes that apply to nonpublic schools and the profession of the participating provider.
6. Do not discriminate against students or applicants on the basis of race, color, or national origin.
7. Conduct criminal background checks on employees as defined by the IEA Program rules (rules of the SBE Chapter 0520-01-11).
8. Exclude from employment any person not permitted by state law to work in a nonpublic school or as a participating provider.
9. Exclude from employment any person who might reasonably pose a threat to the safety of students.
10. Provide parents with a receipt for all qualifying expenses. Providing receipts to IEA parents/guardians is crucial to help them fulfill their contractual obligation to provide the TDOE with quarterly expense reports and receipts. If a parent/guardian fails to send the TDOE complete expense reports and receipts, the parent/guardian/student could be removed from the IEA



Program. If a private school charges fees outside of the tuition amount, these fees must be itemized on the receipt given to the parent/guardian. Using IEA funds for food, fieldtrips, or other unapproved expenses could result in the parent/guardian/student's removal from the program.

11. Do not hold IEA cards and run them on site without the parent/guardian present or copy credit card information for use at a later date.
12. Do not accept public private day placement funds for students enrolled in the IEA Program. Since parents of students enrolled in the IEA Program waive all their child's IDEA rights and FAPE, parents/guardians cannot accept public private day placement funds while receiving an IEA. Private schools should be aware of this policy and never accept an IEA and public private day placement funds for a single student at the same time from a school district. A parent/guardian found receiving public private day funds and receiving an IEA is in violation of their contract and will be removed from the IEA Program.
13. Verify the continued enrollment and attendance of students enrolled in the IEA Program by notifying the TDOE quarterly by the following dates and following the procedures posted on the TDOE's website: Sep. 1, Nov. 1, Feb. 1, and April 1. The TDOE may suspend or remove a school from participating in the IEA Program if the school fails to verify a student's continued enrollment and attendance.
14. Annually submit to the TDOE the graduation and completion rates of students in the IEA Program.
15. Submit to the TDOE a financial audit of the school conducted by a certified public accountant, if requested by the TDOE and following the guidelines set by the TDOE.
16. If a student withdraws from the school and transfers to another participating school or returns to the school district, refund the tuition and fees on a prorated basis based on the number of days the student was enrolled in the school following the procedures set by the TDOE. Parents/guardians may not accept any payment, refund, or rebate of IEA funds from a provider of any services for the IEA Program. All refunds must be returned by the school/provider directly to the TDOE for credit to the student's IEA account. Refunds must be received by the TDOE within 15 calendar days of the student's withdrawal from the school.
17. Upon a student's withdrawal from the school, send all educational records of the participating student to the school district or other school identified by

the parent. If a student transfers from a participating school, the school must provide the parents copies of all the student's educational records within five business days of the transfer regardless of whether the parent owes money to the school. If a school does not provide the records as required by this part, the TDOE can remove the school from participating in the IEA Program.

18. Do not send parent-held IEA accounts to collections in order to settle unpaid debts. All contracts entered into are the responsibility of the private parties involved.

### **Private School Proportionate Share**

The federal regulations that implement the Individuals with Disabilities Education Act (IDEA) require public education agencies (school districts) to spend a proportionate share of their federal special education funding to provide special education and related services to children with disabilities who are enrolled by their parents in private schools (including religious schools) located within their jurisdiction (34 C.F.R. §§ 300.132 and 133). Each school district must consult with private school representatives and representatives of parentally-placed private school children with disabilities in order to design and develop a plan for the provision of equitable services to parentally-placed private school children with disabilities (see 34 C.F.R. § 300.134). However, participation in the IEA Program shall have the same effect as a parental refusal to receipt of IDEA services (20 U.S.C. § 1414). Therefore, if a student is enrolled in the IEA Program, the student **is not** entitled to equitable services that the school district has determined through the consultation described above it will make available to that population of children.

### **Assessment**

If a student is in grades 3–8, the parent must submit verification to the TDOE that the student has taken either a nationally norm-referenced test(s) approved by the TDOE or the Tennessee Comprehensive Assessment Program (TCAP) test(s), or a future replacement of the TCAP test. The tests should, at a minimum, measure learning in mathematics and English language arts (ELA).

Schools participating in the IEA Program must agree to administer either a nationally norm-referenced test(s) identified by the TDOE or the TCAP test(s), or any future replacements of the TCAP test(s), to students enrolled in the IEA Program in

grades 3–8 if requested by the parent/guardian. The school may charge parents a fee to administer the assessments, and parents/guardians may use IEA funding to pay assessment fees. Any assessment fees charged by the school must be included in the fee schedule submitted with the school's application to participate in the IEA Program and/or renewal form submitted to the TDOE and must be itemized on the receipt given to parents/guardians.

If the school administers a norm-referenced test(s) to an IEA student, the school must provide the student's parent with an assessment report which shall include, at a minimum:

- the name of the assessment,
- the date the assessment was administered to the student,
- the student ID number (issued by the public school district in which the student resides),
- the name of the student (first, last, and middle initial), **and**
- the student's score on the assessment.

If the school administers a TCAP assessment to an IEA student, the school shall identify on the forms submitted to the TDOE's Division of Data and Research the student's ID number (issued by the public school district in which the student resides) and the IEA Program's EIS classification code (8).

## Chapter 4: School and Provider Application Process

There is a specific process that each type of provider (including participating schools) will need to follow to apply and become eligible to participate in the IEA Program.

- Private Schools:
  - Private schools must complete and submit Private School Pre-Application Private School Application Form located on the IEA website
  - Agreement
  - and all supporting documentation (see Appendix B) posted on the TDOE's website following the directions on the form.
- Tutors: Tutors cannot apply directly to participate in the IEA Program. Instead, parents/guardians of students enrolled in the IEA Program must

submit the credentials of the tutor to the TDOE following the procedures in Chapter 10 of the *IEA Parent Handbook*.

- Therapists and/or Therapy Providers: Therapists and therapy providers cannot apply directly to participate in the IEA Program. Instead, parents/guardians of students enrolled in the IEA Program must submit the credentials of the therapist/therapy provider to the TDOE following the procedures in Chapter 10 of the *IEA Parent Handbook*.

## **Private School Application Process**

After having submitted a pre-application and been verified as a valid, in-state private school, a nonpublic school must complete and submit the following forms and documentation to the TDOE in order to participate in the IEA Program

The IEA School Application and Agreement

1. Surety bond or statement by a certified public accountant (CPA)
  - a. Surety bond or statement by a CPA must be submitted electronically through the IEA Provider Portal. A hard copy of the document must also be mailed to:

Tennessee Department of Education  
Attention: Rebecca E. Wright, Director, IEA Program  
Andrew Johnson Tower, 9<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243

2. School calendar
3. List of all tuition and fees

Before completing the application/agreement, schools must read the following documents posted on the TDOE's IEA webpage

(<http://www.tn.gov/education/section/iea>):

- [IEA Program law, T.C.A. § Title 49, Chapter 10, Part 14](#)
- [IEA Program rules of the SBE Chapter 0520-01-11](#)
- [IEA Program Procedures](#) developed by the TDOE
- IEA Parent Handbook
- IEA Provider Handbook

The parent and provider handbooks include the allowable use of IEA funds, the responsibilities of parents, the responsibilities of participating schools, and the duties of the TDOE. Representatives of schools interested in participating in the IEA Program should read both handbooks before applying to participate in the IEA Program. If school representatives have questions about the IEA Program, please email [IEA.Questions@tn.gov](mailto:IEA.Questions@tn.gov)

Completed applications (including all required documentation) must be **received** by the TDOE no later than **Nov. 1, 2016, at 3:00 p.m. CST** in order for schools to participate in the IEA Program in the spring 2017 semester.

### ***Next steps after the application is submitted***

1. After the TDOE receives the application, the TDOE will notify the school via email that the application has been received.
2. The TDOE will review the application/agreement and all supporting documentation and notify the school via email as to whether or not the school is approved to participate in the IEA Program.
3. If the TDOE approves the school's application to participate in the IEA Program, the TDOE will include the school on the list of participating schools posted on the TDOE's IEA webpage and identify whether the school has an inclusive educational setting. For the purposes of the IEA Program, a participating nonpublic school is considered to have an inclusive educational setting if the following two criteria are met:
  1. Students with disabilities are educated with non-disabled children.
  2. No more than 50 percent of the students in an individual classroom or setting are students with disabilities.
4. If the TDOE does not approve the school's application to participate in the IEA program, the TDOE will include in the email an explanation as to why the school was not approved.

### ***Surety Bond or Statement by a Certified Public Accountant***

Participating schools must demonstrate financial viability to repay any funds that may be owed to the state by filing with the TDOE, prior to the start of each school year, financial information verifying the school has the ability to pay an aggregate amount equal to the amount of IEA funds expected to be paid during the school year. Schools can comply with this requirement by doing **one** of the following:

- 1) Filing a **surety bond** payable to the state from a surety. The amount of the surety bond must be equal to the maximum number of students enrolled in the IEA Program the school has the capacity to enroll (identified in the school's application/renewal application) multiplied by \$1,600. For example, if a school has the capacity to enroll 10 students, the school would report their maximum capacity as 10 in the application and then the amount of the surety bond would be \$16,000 (\$1,600 x 10). The school could also decide that while it has capacity to enroll 10 students, it only wants to accept five students who receive IEAs, in which case the school could report 'five' as the maximum number of students in the application and then submit a bond in the amount of \$8,000 (\$1,600 x 5).
- 2) If a school has been approved as a Category I, II, or III nonpublic school for **five years or more**, in lieu of the surety bond, the school can submit a **statement by a certified public accountant** confirming that the school has the ability to pay an aggregate amount equal to the amount of IEA funds expected to be paid during the school year.

Participating schools must upload their surety bond or statement by a certified public accountant into the IEA Provider Portal as part of their application to participate in the IEA Program. After uploading this documentation electronically into the portal, participating schools must mail a hard copy of the document to the TDOE (see below).

**Please mail surety bonds or the statement by a certified public accountant to:**

Rebecca E. Wright, Director, IEA Program  
Andrew Johnson Tower, 9<sup>th</sup> Floor  
710 James Robertson Parkway  
Nashville, TN 37243

***Appeal of Denial of School Application to Participate in the IEA Program***

If the TDOE does not approve a school's IEA Program School Application, the school may appeal the TDOE's decision pursuant to the appeals procedures in the rules of the SBE 0520-01-11-.10.

**0520-01-11-.10 APPEAL PROCEDURES.**

(a) Step one (1): The appeal should be on the form provided by the TDOE and should be submitted to the commissioner of education within ten (10) business days of receipt of the notice of denial, suspension, termination, and/or removal.

Notice of denial, suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three (3) business days after the date of postmark. The commissioner of education, or the commissioner's designee shall review the appeal shall be reviewed by the commissioner of education, or the commissioner's designee, within thirty (30) calendar days. The commissioner's decision shall be rendered within ten (10) business days of the date of the review.

(b) Step two (2): The account holder shall be notified of the commissioner's decision for in the step one (1) appeal electronically and via first-class USPS. Such notice shall be deemed received three (3) business days after the date of postmark. An appeal of the commissioner's decision in step one (1) shall be filed with the commissioner by the account holder within thirty (30) days and shall conform to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

### **Updating School Information**

If at any time the information submitted in the application changes, including, but not limited to, the email address, physical address, and phone number, the school shall report the changes by emailing [IEA.Questions@tn.gov](mailto:IEA.Questions@tn.gov). **Schools must notify the TDOE within fifteen (15) calendar days of the change taking effect.** Failure to provide this information to the TDOE within fifteen (15) days may result in the suspension of the school's participation in the IEA Program and/or removal of the school from participating in the IEA Program.

### **School Renewal**

Annually, participating schools must complete and submit a new application to the TDOE, along with all supporting documentation, in order to continue to participate in the IEA Program. Completed applications (including all required documentation) must be **received** by the TDOE no later than **March 1, 2017, at 3:00 p.m. CST** in order for schools to participate in the IEA Program in the 2017-18 school year.

### **Verification of Student Enrollment**

Participating schools shall verify the continued enrollment and attendance of students enrolled in the IEA Program by submitting to the TDOE a Participating

School Enrollment Report (see Appendix C). The forms shall be submitted to the TDOE every quarter through the IEA Portal by the following dates: Sep. 1, Nov. 1, Feb. 1, and April 1. The TDOE may suspend or remove a school from participating in the IEA Program if the school fails to verify a student's continued enrollment and attendance.

### **Annual Graduation and Completion Rates**

Annually, participating schools must submit through the IEA Portal the graduation and completion rates of 12<sup>th</sup> grade students in the IEA Program to the TDOE in order to continue to participate in the IEA Program. The form must be **received** by the TDOE no later than **June 15, 2017, at 3:00 p.m. CST** in order for schools to participate in the IEA Program in the 2017-18 school year.

Participating schools will have to report all of their 12th grade students who participate in the IEA Program as one of the following: graduated, completed, withdrew from the school, repeating 12th grade, or other with explanation.

- Participating schools will define graduation as a student who has either received a regular diploma or a special education diploma.
- Participating schools will define completion as a student who has taken and passed the HiSET or GED.

## **Chapter 5: Use of IEA Funds**

IEA funds may only be used for the expenses listed in IEA Program law (T.C.A. § Title 49, Chapter 10, Part 14), IEA Program rules (rules of the SBE Chapter 0520-01-11), TDOE IEA Program procedures, and the *IEA Parent Handbook*. For a complete list of the approved uses of IEA funds, see Chapter 9 of the *IEA Parent Handbook*.

### ***Please note the following:***

- IEA contracts are entered into with the parent/guardian, not providers (including participating schools). Parents/guardians are responsible for any contract signed with providers and for ensuring that the terms of the contract are fulfilled.
- The TDOE cannot void a private contract, give legal advice, or arbitrate payment schedules.
- Providers may neither hold IEA cards and run them on site without the parent/guardian present nor copy credit card information for use at a later date.



- The parent/guardian is responsible for payment of all ineligible expenses and any eligible expenses in excess of the amount of the IEA.
- Participating schools cannot accept public private day placement funds for students enrolled in the IEA Program.
- If a participating school or provider misuses or fraudulently spends IEA funds, the school/provider will be responsible for repaying those funds to the state treasurer and, in the case of a participating school, the school will be immediately removed from the IEA Program, or in the case of a tutor or therapist, the provider will be prohibited from receiving IEA funds. Cases of fraud and misuse of funds may also be referred to the state comptroller's office or the state attorney general's office.

## **Refunds**

Parents may not accept any payment, refund, or rebate of IEA funds from a provider of any goods or services for the IEA Program.

All refunds must be returned by the school/provider directly to the TDOE for credit to the student's IEA account. Refunds must be received by the TDOE **within fifteen (15) calendar days** of the service being cancelled, the item being returned, or the student's withdrawal from the school.

### **All refunds should be placed back on the IEA debit card by the vendor.**

- If the provider is unable to refund the funds directly back onto the IEA debit card, the provider can mail the TDOE a certified check (including money orders). Checks should be payable to: Treasurer, State of Tennessee
- With the check, the provider must include a letter with the account holder's name, the student ID number, and the reason the funds are being returned to the state.
- Mail the check and letter to:

Tennessee Department of Education  
 Attention: Rebecca E. Wright, Director, IEA Program  
 Andrew Johnson Tower, 9<sup>th</sup> Floor  
 710 James Robertson Parkway  
 Nashville, TN 37243

**It is considered fraud if a refund is not deposited into the IEA or returned to the TDOE.**

### **Audit**

The TDOE may require participating schools to submit to the TDOE a financial audit of the school conducted by a certified public accountant. Such audit shall include a statement that the report is free of material misstatements and fairly represents the participating school's maximum total tuition and fees. Any funds determined by the TDOE to be expended in a manner inconsistent with this part shall be returned to the state.

## **Chapter 6: Suspension and Revocation**

The TDOE may deny, suspend, or revoke a provider's (including nonpublic school's) participation in the IEA Program (which, in the case of tutors and therapists, means that they will not be able to receive IEA funding) if it is determined that the provider has failed to comply with the IEA rules or TDOE procedures. However, if the noncompliance is correctable within a reasonable amount of time and if the health, safety, or welfare of the students is not threatened, the TDOE may issue a notice of noncompliance which provides the provider with a timeframe within which to provide evidence of compliance before the TDOE takes action to suspend or revoke the provider's participation in the IEA Program.

- 1) If the TDOE issues a notice of noncompliance:
  - a) Providers shall be given a reasonable period from the date of the notice, as determined by the TDOE, to demonstrate compliance.
  - b) The notice shall state the reasons for the noncompliance, provide instructions on how to demonstrate compliance, and give a deadline for demonstrating compliance to the TDOE.
- 2) If the TDOE issues a notice of proposed action denying, suspending, or revoking a provider's participation:
  - a) The notice shall state the reasons for the action and specify the provider's right to appeal.
- 3) If the TDOE suspends payment of IEA funds:

- a) The TDOE shall issue a notice of proposed action suspending payment of IEA funds to the account holder and the provider; and
- b) The notice shall state the reasons for the suspension and the rights the provider has to appeal.

The TDOE may deny, suspend, or revoke a provider's participation in the IEA Program if the TDOE determines that an owner or operator of the organization/company/school is operating or has operated a company/organization/educational institution in this state or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public.

- a) In making such a determination, the TDOE may consider factors that include, but are not limited to: acts or omissions by an owner or operator that led to a previous denial or revocation of participation in Tennessee's IEA Program or similar programs in other states; an owner's or operator's failure to reimburse the TDOE for IEA funds improperly received or retained by a school; imposition of a prior criminal sanction related to an owner's or operator's management or operation of an educational institution; imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of a company/organization/educational institution; or other types of criminal proceedings in which an owner or operator was found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense involving fraud, deceit, dishonesty, or moral turpitude.
- b) For purposes of this subparagraph, the term "owner or operator" includes an owner, operator, superintendent, or principal of, or a person who has equivalent decision making authority over, a nonpublic school participating in the IEA Program or a provider receiving IEA funds.

The TDOE may immediately suspend a provider's participation in the IEA Program if it is determined that there is probable cause to believe that there is:

- 1) an imminent threat to the health, safety, or welfare of the students and/or
- 2) fraudulent activity on the part of the provider. In incidents of alleged fraudulent activity pursuant to this section, the TDOE is authorized to release

personally identifiable records or reports of students to the following persons or organizations:

- a) A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
- b) A person or entity authorized by a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.
- c) Any person, entity, or authority issuing a subpoena for law enforcement purposes when the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.
- d) The TDOE's order of suspension may be appealed pursuant to the appeals procedures in the rules of the SBE Chapter 0520-01-11.

If the TDOE suspends or terminates a provider's participation, the TDOE shall notify affected participating students and their parents of the decision. If a participating provider is suspended or if a participating school withdraws from the IEA Program, affected participating students remain eligible to participate in the IEA Program.

### **Appeals: Request for Reconsideration**

A provider may appeal the TDOE's decision to deny, suspend, or revoke a provider from participating in the IEA Program pursuant to the following the two-step appeals procedures as required in the rules of the SBE Chapter 0520-01-11:

- **Step 1:** The appeal should be on the form provided by the TDOE and should be submitted to the commissioner of education within ten (10) business days of receipt of the notice of denial, suspension, termination, and/or removal. Notice of denial, suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three (3) business days after the date of postmark. The commissioner of education, or the commissioner's designee, shall review the appeal within thirty (30)

calendar days. The commissioner's decision shall be rendered within ten (10) business days of the date of the review.

- **Step 2:** The participating school shall be notified of the commissioner's decision in the step one (1) appeal electronically and via first-class USPS mail. Such notice shall be deemed received three (3) business days after the date of postmark. An appeal of the commissioner's decision in step one (1) shall be filed with the commissioner by the account holder within thirty (30) days and shall conform to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

The TDOE may refer cases of substantial misuse of monies to the state comptroller's office for investigation if the TDOE obtains evidence of fraudulent use of an account.